

Honorable John C. Coughenour
on reference to
Honorable James P. Donohue

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

FILED UNDER SEAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

MARIA UCHYTIL, an individual, and
JEAN DeFOND, an individual, on behalf of
the United States of America,

Plaintiffs/Relators.

v.

AVANADE INC., a Washington corporation, AVANADE FEDERAL SERVICES LLC, a Delaware limited liability company, and AVANADE HOLDINGS LLC, a Delaware limited liability company.

Defendants.

Case No.:2:12-cv-002091 JCC

**RELATORS' EX PARTE PROPOSED
PROTOCOL FOR DEALING WITH
ISSUES RAISED BY RELATORS' EX
PARTE SEALED MOTION
REQUESTING COURT'S GUIDANCE**

Note for Consideration: November 5, 2014

Relators Maria Uchytil and Jean DeFond (“DeFond”)¹ filed an ex parte motion under seal requesting the Court’s guidance on dealing with contested confidential and privileged documents and communications. *Motion, Docket No. 15.* The Court, Hon. John C. Coughenour, referred the motion to Magistrate Judge James P. Donohue for consideration.

¹ Maria Uchytil is the relator in the original Complaint filed in this action. After the Court permitted Ms. Uchytil to communicate with Jean DeFond and to share the Complaint with her, Ms. DeFond furnished facts that provide the basis for the First Amended Complaint that names her as an additional Relator. The FAC was then filed under seal but has not yet been served on the United States.

1 *Docket No. 16.* At Judge Donohue's direction, the Court issued a Minute Order directing
2 counsel for the Relators and the United States to appear at a hearing on the Motion on
3 October 29, 2014. *Docket No. 17.* The undersigned counsel for the Relators ("Relators"
4 Counsel") and counsel for the United States Harold Malkin ("Government Counsel")
5 appeared at the hearing at which Judge Donohue outlined a series of steps to be taken to
6 resolve the issues raised by the Motion and directed the Relators to file under seal a proposed
7 protocol setting forth the steps in more detail. Relators are filing this Proposed Protocol
8 under seal in response to the Court's direction.

9 1. DeFond shall preserve all documents in her possession obtained during her
10 employment with Avanade Federal Services, LLC.

11 2. From that universe of documents, DeFond shall select those documents that
12 deal with the subjects and issues presented in the complaints filed in this action. She will
13 keep a record of the search terms or other means used to select the documents and will Bates
14 number that sub-set of documents ("Relevant Documents").

15 3. From the Relevant Documents, DeFond shall select those documents she
16 would like to share with Government Counsel ("Selected Documents") and shall prepare a
17 reverse privilege log, identifying the Selected Documents by Bates' number and setting forth
18 pertinent details about the documents and reasons why DeFond believes the documents are
19 not protected from disclosure by the attorney-client privilege or other grounds ("Reverse
20 Privilege Log").

21 4. DeFond may share the Selected Documents with Relators' Counsel for the
22 purpose of refining the Reverse Privilege Log.

23 5. Relators' Counsel shall deliver the Selected Documents and the Reverse
24 Privilege Log to Judge Donohue for review and consideration *in camera*.

6. Judge Donohue will decide whether the Selected Documents can be disclosed to Government Counsel or whether the Defendants to this action shall be afforded an opportunity to respond to the Reverse Privilege Log with reasons why the Selected Documents should not be disclosed. The Court will issue an order filed under seal with the Court's decision.

7. If the Court decides to seek input from the Defendants, the Court shall first seek input from Relators' Counsel and Government Counsel on how to notify the Defendants, specifically addressing the issue of whether the seal of this case should be partially lifted for that limited purpose.

8. The process set forth in this Proposed Protocol shall be expedited.

9. The Court will use this Proposed Protocol as the basis for and will enter an Order Responding to Relators' Ex Parte Sealed Motion Requesting Court's Guidance.

DATED this 5th day of November, 2014.

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RELATORS' PROPOSED PROTOCOL - 3

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